

Remarks

Claims 1-38 were previously pending, of which claims 1-5 were allowed and claims 6-38 were withdrawn from consideration. By this amendment claim 1 is amended, withdrawn claims 6-38 are canceled without prejudice or disclaimer, and new claims 39-45 are added. No new matter is added.

Claim 1 is amended to specify that the Akt molecule is an Akt nucleic acid. Support for this amendment can be found, for example, at page 7, line 26 – page 8, line 12, and page 8, lines 21-23 of the specification.

New claim 39 depends from claim 1 and further specifies that the Akt nucleic acid comprises a nucleic acid sequence of SEQ ID NO:1. Support for this claim can be found, for example, at page 8, lines 21-23 of the specification.

New claim 40 has parallel construction to claim 1 as currently amended, except claim 40 specifies the Akt molecule is an Akt polypeptide. Support for this claim can be found, for example, at page 7, lines 26-29, and page 16, line 25 – page 17, line 3 of the specification.

New claims 41-44 depend from claim 40 and have parallel construction to claims 2-4.

New claim 45 depends from claim 40 and further specifies that the Akt polypeptide is a polypeptide or fragment thereof encoded by a nucleic acid sequence comprising SEQ ID NO:1 and wherein said polypeptide or fragment thereof maintains serine threonine kinase activity and/or is capable of inhibiting apoptotic cell death. This language was suggested by the Examiner in his email sent November 16, 2004, and finds support as noted above.

Applicant notes that the Board of Patent Appeals and Interferences did not include in its decision any statement raising a new ground of rejection not involved in the appeal.

Applicant acknowledges that the Examiner indicated in the Quayle Action that the application is in condition for allowance except for cancellation of non-elected claims (claims 6-38). In response, Applicant has canceled non-elected claims 6-38. Applicant expressly reserves the right to pursue the subject matter of any or all of canceled claims 6-38 in one or more continuation or divisional applications.

In addition, Applicant has amended claim 1 and added new claims 39-45 to make more clear that “Akt molecule” as originally specified in claim 1 refers to both Akt nucleic acid and Akt polypeptide, as disclosed in the specification. Applicant respectfully submits that no new matter is introduced by these claims and that, further, no additional searching is required of the Examiner in order to enter and allow such claims.

Information Disclosure Statement

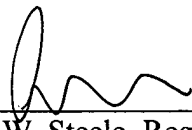
Applicant respectfully requests the Examiner affirmatively indicate in writing that he has considered art cited in the Information Disclosure Statement originally submitted June 20, 2000, a copy of which was resubmitted on November 16, 2004.

Summary

Applicant believes all claims are in condition for allowance. A prompt and favorable action is solicited.

If the Examiner has any questions about the amendment to claim 1 and/or the addition of claims 39-45, or if he is not inclined to enter such amendments to the claims, the Examiner is requested to contact Applicant's representative at the number shown below.

Respectfully submitted,
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